

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

SALLY SAPATA

Claimant

VS.

SOUTHWESTERN BELL TELEPHONE COMPANY

Respondent

Self-Insured

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Docket No. 133,971

ORDER

Claimant appeals from the Award on Review and Modification of Assistant Director Brad E. Avery dated June 4, 1997, wherein the Assistant Director denied claimant additional compensation finding no basis for a review and modification of the original award.

APPEARANCES

Claimant appeared by and through her attorney, Beth Regier Foerster of Topeka, Kansas. Respondent, a qualified self-insured, appeared by and through its attorney, Derek J. Shafer of Topeka, Kansas. There were no other appearances.

RECORD AND STIPULATIONS

The record and stipulations as specifically set forth in the Award of the Administrative Law Judge are herein adopted by the Appeals Board.

ISSUES

- (1) Is claimant entitled to a modification of the original award as a result of a change in conditions?
- (2) Is claimant entitled to additional post-award medical treatment for her injuries?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire evidentiary record, the Appeals Board makes the following findings of fact and conclusions of law:

The Appeals Board finds that the Award of the Assistant Director sets out findings of fact and conclusions of law in some detail and it is not necessary to repeat those herein. The findings and conclusions enumerated in the Award of the Assistant Director are accurate and appropriate and the Appeals Board adopts same as its own findings and conclusions as if specifically set forth herein.

The Assistant Director found claimant failed to prove entitlement to a modification of her prior Award, failing to show that her condition has changed since the time of the original award. The Appeals Board finds, based upon the medical testimony of Dr. Peter V. Bieri, that claimant's condition has not changed and there is no justification for a modification of this original award of 2 percent to the body as whole.

Claimant requests additional medical treatment with Dr. Joseph G. Sankoorikal to alleviate the problems associated with her myofascial pain syndrome. The Appeals Board, after considering the reports of Dr. Sankoorikal and of Dr. Bieri and reviewing the testimony, finds the opinion of Dr. Bieri to be more credible regarding whether claimant's myofascial pain syndrome is related to her work-related injuries. Dr. Sankoorikal, when asked about the origin of the diagnosis of myofascial pain syndrome, only discussed claimant's history of no acute injury with ongoing symptomatology since 1986. However, it is significant that claimant's original injury dealt with her low back and only later did she begin developing symptoms in her upper extremities. It is also significant that claimant later developed bilateral carpal tunnel syndrome while working for a different employer. Dr. Bieri's opinion regarding claimant's myofascial pain syndrome is clear and unambiguous in that he feels, based upon the available documentation, that there is no relationship between claimant's myofascial pain syndrome and her work-related injuries. The Appeals Board therefore finds that claimant's request for additional medical treatment for the ongoing myofascial pain syndrome should be denied.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Assistant Director Brad E. Avery dated June 4, 1997, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of June 1998.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Beth Regier Foerster, Topeka, KS
Michael C. Cavel, Topeka, KS
Derek J. Shafer, Topeka, KS
Brad E. Avery, Assistant Director
Philip S. Harness, Director